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South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 9

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## Legislative Update, May 12, 1992

### House Week in Review

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With less than a month to mandatory adjournment, the House of Representatives gave third reading approval to a number of bills last week. However, two major bills failed to make any legislative headway.

A number of House bills received third reading last week; but since they missed the May 1 deadline for legislation, they will have to receive a two-thirds vote of the Senate before they can be placed on the Senate calendar.

Among the bills receiving third reading were H.3132, which would prohibit handicapped people from being disqualified as jurors; H.4774, legislation that would change the composition of the Patriot's Point Authority, and H.3027, a bill that would prohibit the displaying of a wild-caught or captive-bred whale or dolphin in South Carolina waters.

Also receiving third reading approval from the House was H.4264, legislation that would provide a three year reduction in automobile liability insurance for drivers who successfully complete an accident prevention course approved by the State Insurance Commissioner.

After much debate, the House also approved H.4571, legislation requiring an assessment report on state agency regulations which have a substantial economic impact. The bill was given second reading approval Wednesday and third reading on Thursday before being sent to the Senate.

The much publicized Dangerous Dog legislation (H.3777) was enrolled for ratification on Tuesday.

Also on Tuesday, an attempt was made to recall S.1327, legislation that would extend the deadline for the closing of the Barnwell low level nuclear waste facility. By a 54-55 vote, the House rejected the motion to recall the bill from the House Agriculture, Natural Resources and Environmental Affairs Committee.

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H.4379, the Energy Conservation and Efficiency Act set for special order, was recommitted to the House Ways and Means Committee last week. Objections placed S.1446, the Housing Trust Fund Act, on the contested calendar; however on Thursday, the House voted to set the legislation for special order consideration.

A move to amend S.385, legislation to repeal the mandate to write physical damage law, with the No Fault Choice automobile insurance legislation was ruled out of order by the Speaker after House members raised the objection that the No Fault Choice amendment would substantially rewrite the bill with subject matter non-germane to the original title.

On Wednesday, the House and Senate met in joint session to hear S.C. Supreme Court Chief Justice David W. Harwell deliver his first state of the judiciary address.



## Bills Introduced

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The following bills were introduced during the past two weeks in the House of Representatives. Not all the bills introduced in the House during that period are featured here. The bill summaries are arranged according to the House standing committee to which they were referred.

### *Agriculture, Natural Resources and Environmental Affairs*

Frapp Island Sea Wall Exemption (S.1269, Sen. Bryan). This legislation would exemption a private island of specific description from the prohibition against new erosion control devices (seawalls) and revetments in the Beach Management Act. The bill specifically states that a private island with an Atlantic shoreline of 20,210 feet, of which 19,105 feet is revetted with existing erosion control devices and 1,105 is not revetted, would be exempted from the prohibitions in the law. These specifications describe Frapp Island. This is the companion bill to H.4371.

Energy Conservation and Efficiency Act (S.1273, Sen Leventis). This is the companion bill to H.4379. This legislation would establish a comprehensive state energy plan to minimize cost while maximizing environmental quality, energy conservation and efficiency. The bill would establish a State Energy Office as a part of the State Budget and Control Board. The purpose of the office would be to develop and implement a well-balanced energy strategy and to increase the efficient use of all energy sources within the state. The office would not function as a regulatory body.

Among the duties of the State Energy Office would be: To provide information and technical assistance for conservation and efficiency programs; to promote energy research; to evaluate and approve energy conservation products; to promote tax incentives, low interest loans and other means of financing cost-effective energy conservation; to promote the adoption and enforcement of energy efficient building codes and certification procedures, including energy efficiency for manufactured

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housing; to promote public transportation and the use of less-polluting transportation fuels; to promote state government as a model for energy efficiency, among other responsibilities.

The State Energy Office annually would submit a state energy action plan to the governor and the Joint Legislative Committee on Energy outlining its plans and identifying barriers to meeting the targeted goals. The Energy Office also would establish an advisory committee made up of energy suppliers and distributors.

As part of the State Government Energy Conservation Plan, the Energy Office would develop an energy code for all state buildings including public schools. All state agencies and public school districts would submit for approval by the Energy Office energy conservation plans and energy consumption goals. To determine if the goals are being reached, the Energy Office could direct that an individual meter be installed in the agency's building. The bill states that an agency's budget could not be reduced due to energy cost savings. Instead, incentives would be used to reinvest the savings into other energy savings methods. The savings realized through these measures would be equally divided among the agency, the General Fund and debt retirement.

Any vendor selling energy saving equipment to state government must have its product evaluated by the State Energy Office before it can be purchased. The office also will assist the state Materials Management Office in identifying energy efficient goods before procurement, and it will help the state engineer draft conservation standards regarding state-owned buildings.

All the duties of the S.C. Energy Research and Development Center, the State Energy Conservation Program, the Energy Extension Service and the Institutional Conservation Program are transferred to the State Energy Office under this bill. The new Energy Office would be funded by the state funds and oil overcharge money.

This lengthy bill also outlines the labeling and insulation standards for mobile homes.

Under this legislation, the State Public Service Commission would be directed to encourage energy efficient technology among the electric and gas utilities. The PSC annually would report to the General Assembly the past, on-going and projected demand for energy and purchase of power among the utilities it regulates. The electric cooperatives, S.C. Public Service Authority and municipally owned utilities would report this information to the State Energy Office.

Under the bill, the State Highway Department would be directed to consider in its planning high occupancy lanes when constructing highways in urban areas and pedestrian walkways and bicycle paths.

State fleet sedans would have to be compacts, under this bill, and state police cars would be issued only to those employees who meet the Internal Revenue Service definition of law enforcement officer.

Other provisions in the bill include:

- Establishes a tax credit to a retailer of motor oil who maintains an oil collection center and to place the 8 cents tax on retail sales of motor oil instead of wholesale sales;



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- Creating an Alternative Transportation Fuels Study Committee to conduct a comprehensive study of clean alternative transportation fuels;
- Exploration by the Division of Motor Vehicle Management regarding the possibility of operating the state fleet on alternative transportation fuels;
- Creating a task force to study the feasibility of establishing intrastate rail service connecting the population centers in South Carolina, North Carolina and Georgia. The task force must report back by January 15, 1993;
- Strengthening the Regional Transportation Authorities.

Barnwell Extension (S.1327, Sen. Williams). This legislation would extend the deadline for the operation of the Barnwell Low Level Nuclear Waste Disposal Facility from December 31, 1992 to January 1, 1996. The disposal facility would remain the disposal site for the Southeast Interstate Low Level Radioactive Waste Management Compact until January 1, 1996 under conditions specified in the bill. These include:

- Stipulating that the facility would cease to be the disposal site for the Southeastern compact if North Carolina has a permanent or temporary site ready before January 1, 1996;
- Prohibiting the North Carolina disposal site from being located within 10 miles of the border of a neighboring state;
- Prohibiting North Carolina from selecting a site that will pose a threat to human health, the environment or water resources in contiguous states.

If North Carolina or the compact commission fail to satisfy these requirements, the bill states that the Barnwell site would immediately stop accepting low level nuclear waste generated in North Carolina, and would stop accepting all waste from outside the state by June 30, 1994. The state Department of Health and Environmental Control would be charged with determining if these conditions are being met.

The bill also establishes the following milestones:

- North Carolina must submit a completed regional disposal facility license application to all the appropriate licensing agencies prior to December 31, 1993;
- An operating license must be approved by all government agencies by March 15, 1995.

If any of the milestones are not met, then a fine of \$5 million would be paid to South Carolina. The fine would come from a surcharge imposed before December 31, 1992 on low-level waste generators in the Southeast, other than the generators in South Carolina. Failure to meet a milestone also would mean the Barnwell Facility would cease to operate one year from the date of the missed milestone.

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Further, beginning January 1, 1993, the Southeastern compact could not approve any agreements allowing the acceptance of non-region waste unless the agreement requires the assessment of a fee equal to or greater than \$160 per cubic foot.

The bill also prohibits any appropriations made from the general fund of South Carolina to offset any deficits incurred by North Carolina in siting or building a new disposal facility. The capacity of the South Carolina landfill is expanded by the legislation from 8.4 million cubic feet to 10 million cubic feet.

### *Education and Public Works*

Free Tuition for Children of Federal Officers (S.931, Sen. Martschink). This legislation would extend the free tuition benefit at a state-supported college for children of law enforcement officers killed or totally disabled performing their duties. Under this legislation, this benefit would be extended to federal law enforcement officers who have been residents of South Carolina for at least 18 years, whether or not they are disabled or killed in South Carolina.

Textbook Selection (S.1416, Sen. Rose). This legislation would prohibit the State Board of Education from approving the adoption of any textbook or instructional material that contains any clear, substantial error. Further, any contract between the State Board of Education and a textbook publisher must require that the instructional material purchased or rented must be free of any clear, substantial factual or grammatical error or the State Board will require reasonable remedies.

Evaluating and rating committees for textbook selection would be made up of at least one layman and a majority of the committee's membership would have expertise in the area under consideration. In addition to evaluating the book or materials' facts and grammar, the committee will ascertain whether the text supports the benefits of the American economic and political system and satisfies state mandates for graduation requirements. Before the contract is given final approval, all textbooks and materials would be available for public inspection for at least 30 days at geographical centers around the state and public hearings held.

### *Judiciary*

Evidence and Spousal Sexual Battery (H.4796, Rep. Rudnick). This legislation would prevent evidence of specific instances of sexual conduct, opinion evidence of sexual conduct and reputation evidence of sexual conduct from being submitted in marital rape trials.



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Motorsport Nonspectator Liability Release Act (H.4816, Rep. Beasley). This legislation would allow the operators of closed-course motorsport facilities to require a spectator to sign a liability release form if the spectator is to be admitted into a non-spectator area. The liability release form would hold the parties operating, leasing or sanctioning the event not liable to a nonspectator or his heir for any negligence causing damage or injury to the spectator or his property during the time he is in the nonspectator area.

Children's Firearms Accident Prevention Act (H.4817, Rep. Jennings). This legislation would require any person who keeps a loaded firearm on his property to keep the weapon locked up if it is likely a child, under the age of 14, could gain access to it. Under this bill, if the child gains access to the loaded weapon which is not locked up, and kills himself or another, the owner of the loaded weapon would be guilty of criminal storage of a firearm in the first degree. If the child is injured or injures someone else with the weapon, the owner would be guilty of criminal storage of a firearm in the second degree. Punishment for criminal storage of a firearm in the first degree would be three years in jail and/or a \$10,000 fine. A second degree conviction would be a one year jail term and/or a \$1,000 fine.

If the weapon-owner is closely related to the child killed or injured in the incident, the legislation states the person should be prosecuted only if the person behaved in a grossly negligent manner. Similarly, the bill states the parent or guardian should not be arrested for at least seven days from the time of the incident. The intent is to delay the arrest while the child remains on life-support equipment or is critically injured.

Firearms dealers would have to give each purchaser a written warning statement declaring that it is unlawful for any adult to store or leave a firearm within each reach or access of a minor. Retailers who violates this provision would be guilty of a misdemeanor and upon conviction could be fined between \$1,000 and \$5,000.

These provisions would not apply if the child obtains the weapon through illegal entry to the premises; if the weapon is kept in a locked container; if the firearm is equipped with a trigger-locking device; if the person is in law enforcement or a member of the military or national guard who obtains the weapon as part of his or her duty; if the weapon is kept on property where the owner has no reason to believe a child would be present, or if the child obtains and shoot the weapon in self-defense or the defense of another.

Qualification of Coroners (S.1085, Sen. Rose). This joint resolution would amend the state constitution to allow the General Assembly to determine the training requirements for coroners. If enacted, this question must be presented to the voters in a statewide reference during the next general election.



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Pretrial Intervention Programs (S.1450, Sen. Holland). Under this legislation, the office of pre-trial intervention coordinator would be moved from the state Attorney General's Office and placed under the Commission on Prosecution Coordination, which would oversee administrative procedures for the circuit solicitor's pre-trial intervention programs. The bill would expand the time for applying for the intervention program from 45 days after service of a warrant to 75 days after service of a warrant. The bill also would prohibit drug and alcohol abuse services from being denied an offender because of the offender's inability to pay. All applications for pre-trial intervention, whether accepted or rejected, must be kept on file in the solicitor's office for two years. Information released about an offender participating in a pre-trial intervention program would be a misdemeanor punishable by a fine of up to \$2,000 or up to a year in jail. This is the companion bill to H.4713.

Increases the Penalty for Cruelty to Animals (S.1474, Sen. McConnell). This legislation would increase the penalties for cruelty to animals offenses. Punishment for ill-treatment of an animal would increase to 60 days in jail or a \$100 to \$400 for first offense, 90 days in jail or \$800 for second offense, and two years in jail or a \$2,000 fine for third and subsequent offenses. These offenses would be tried in magistrate's court.

Torturing or killing an animal would be a misdemeanor carrying a fine of \$5,000 or two years in jail.

### *Labor, Commerce and Industry*

Migrant Farmer Workers Commission (S.1449, Sen. Lourie). This legislation, the companion bill to H.4675, revises the makeup of the 15 members of the Migrant Farm Workers Commission. The Commission would consist of six members from difference growers' associations, three members of different migrant advocacy groups, three representatives of nongovernmental service providers involved with seasonal or migrant workers, and three members of the public appointed by the Governor. One of the governor's appointees would serve as chairman. Representatives from various federal and state agencies would be authorized to attend meetings to act in an advisory capacity to the commission. These agencies include the U.S. Labor Department, S.C. Departments of Labor, Agriculture, Education, Health and Environmental Control, the Employment Security Commission and the Governor's Office.

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### *Medical, Military, Public and Municipal Affairs*

Emergency Refill of Drugs (S.1138, Sen. Giese). Under this legislation, a pharmacist, who receives a request for a prescription refill and is unable to obtain a refill authorization from the doctor, may prescribe a one-time emergency refill of up to 72 hours of the prescription if the medication is not a controlled substance, it is essential to the maintenance of life or continued therapy, or if in the pharmacist's opinion, interruption of the prescription would cause physical or mental discomfort or undesirable health consequences. However, under these provisions, the pharmacist must notify the physician of the emergency dispensing within 72 hours.

In addition, this legislation would prohibit a pharmacist from refilling a prescription that is more than two years old from the original date written.

Further, the legislation would require a prescription to be written to obtain a diagnostic device bearing on the manufacturer's or distributor's label the prohibition that it cannot be dispensed without a prescription.

Collaborative Council for Children (S.1285, Sen. Nell Smith). This legislation would establish the Collaboration Council for Children, consisting of the governor, the commissioners of the Departments of Health and Environmental Control, Social Services, Mental Health, Mental Retardation and Youth Services, the State School Superintendent, and the executive director of the Health and Human Service Finance Commission. These agencies head may also send a designee, who specializes in children's issues. The chairman of the Joint Legislative Committee on Children, or his designee, would serve as chairman of the Collaborative Council. Other state or federally-funded agencies that deal with children may send a representative, who would attend without voting privileges.

The purpose of the council, which would meet at least quarterly, would be to identify and serve the needs of children from prenatal care to high school by providing a mechanism for planning and coordinating state and federal services to children within the state. The bill stipulates that the council would address the issues of health screening, ways to increase coordination of child care with adult education and parenting classes, transportation of special needs children, and coordinated delivery of service to children with disabilities.

A special committee made up of members of the Collaborative Council and the executive directors of the Children's Foster Care Review Board and the Continuum of Care for Emotionally Disturbed Children would be established to address the issues regarding children in the custody of the state.



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The council would work to enhance better coordination and financing of programs for children. Within one year, it would report back to the Joint Committee on Children and several House and Senate standing committee on the success of its work. The staffs of these legislative committee would monitor its work.

### *Ways and Means*

School Bond Limits (H.4815, Rep. Harrelson). This provision would prohibit school districts from exceeding their general obligation bond limitation either directly or indirectly through the use of lease purchase agreements.

### *Without Reference*

Campaign Debt Retirement Contributions (H.4814, Rep. Annette Young). Under this legislation, contributions made to retire the debt of a candidate from a previous campaign could not be more than allowed currently under the Ethics, Government Accountability and Campaign Reform Act of 1991, even if the race was held under the old campaign contribution provisions.